

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Kun Li et al.

Serial No. 10/523,796

Confirmation No.: 6163

Filed: February 8, 2005

For: Flow Control Method For Data Traffic
Transmitted Through Synchronous Digital
Hierarchy Network

Art Unit: 2153

Examiner: Bryan P. Bui

Atty. Docket No. 46843-212557

Customer No.

26694

PATENT TRADEMARK OFFICE

LETTER REGARDING ADVISORY ACTION AND REQUESTING NEW ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Examiner's Advisory Action dated June 6, 2008, indicates that the amendment filed on May 16, 2008 will not be entered for the purported reason that the amendment changes the scope of the claims as indicated in the continuation of item 3 on the second page of the Advisory Action. Applicants respectfully disagree that the scope of the claims have been changed and, in any event, the claims indicated to be rejected (8, 9, 11, 12, 16, 25 and 27) and the claims withdrawn from consideration (1-7, 10, 13-15, 17-24, 26, 28 and 29) suggest that the amendment has been partially entered. That is, claims 1-7 and 10 were previously cancelled in response to the first Examiner's Action, however claims 13-15, 17-24, 26, 28 and 29 were not cancelled until the Amendment After Final filed on May 16, 2008, so that the Examiner's withdrawal of these latter claims from consideration suggest that the amendment was at least partially entered.

With respect to the suggestion in the Advisory Action that the scope of the claims was changed in the Final Action, Applicants point out that claim 8 was amended merely to incorporate

the subject matter of claim 15, so that claim 8, as amended, corresponds identically to claim 15 as previously presented in the response to the first Examiner's Action. Further, claim 25 was merely amended in the Amendment After Final filed May 16, 2008 to incorporate the subject matter of claim 26, so that claim 25, as amended, corresponds identically to claim 26 as previously presented in response to the first Examiner's Action. In short, claims 8 and 25, as amended, comprise claims 15 and 26 placed in independent form. Accordingly, contrary to the contentions set forth in the Advisory Action, the scope of the claims as presented in the Amendment After Final filed on May 16, 2008 has not been changed.

On June 11, 2008, the undersigned had a telephone conversation with Examiner Bryan Bui in which the foregoing was explained. As a result, Examiner Bui indicated that he would enter the Amendment of May 16, 2008 and consider the Amendment on its merits. Examiner Bui indicated that we could expect to receive a new Action within one to two weeks.

On June 23, 2008, having not received a new Action from the Examiner, the undersigned had a telephone conference with Examiner Bui's Supervisory Primary Examiner, Glenton Burgess, who stated he would speak with Examiner Bui to urge him to issue the promised Action.

On July 18, 2008, having not received the promised Action, the undersigned telephoned SPE Burgess again to indicate that the Action still had not been received and that Applicant was being prejudiced due to the time delay in that the application was now in the second extension period following the final Examiner's Action. Again, Mr. Burgess indicated he would speak with Mr. Bui to remind him about the promised Action.

Today, the application is now in the third extension period and a new Action replacing the Examiner's Advisory Action of June 6, 2008, has still not been issued. Applicants do not know if the Amendment After Final will be entered for purposes of appeal or whether the application is now in condition for allowance as suggested in the May 16, 2008 Amendment, or whether a new Action on the merits will be issued. Applicants are being severely prejudiced in that it will soon be time to file a three-month extension of time plus a Notice of Appeal together with the required

Appeal fees, just to keep the application alive so that the Examiner can issue a new Action, as promised in the June 11, 2008 telephone conference with Examiner Bui.

In view of the above, it is requested that the Amendment After Final be immediately acted upon and either the application be allowed or that a new Action be issued, restarting the period for response so that Applicants are not prejudiced with the enormous fees that would otherwise be required to keep the application from going abandoned as noted above.

It is not believed that an extension of time is required for consideration of this letter which requests consideration on the merits of the previously filed Amendment After Final filed on May 16, 2008. However, should an extension of time be necessary to consider this letter, authorization is given to charge our Account No. 22-0261 with any required fees.

Dated: August 21, 2008

Respectfully submitted,

By /Robert Kinberg/

Robert Kinberg

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